

Permitting & Assistance Branch Staff Report
Revised Solid Waste Facilities Permit for the
Forward Inc. Landfill
SWIS No. 39-AA-0015
January 19, 2012

Background Information, Analysis, and Findings:

This report was developed in response to the San Joaquin County, Environmental Health Department, Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed revised Solid Waste Facilities Permit (SWFP) for the Forward Inc. Landfill, SWIS No. 39-AA-0015, located in San Joaquin County and owned and operated by Forward Inc.,. A copy of the proposed permit is attached. The report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

A proposed permit was received on December 14, 2011. A new permit was received on January 23, 2012. Action must be taken on this permit no later than March 23, 2012. If no action is taken by February 12, 2012, the Department will be deemed to have concurred with the issuance of the proposed revised SWFP.

Proposed Changes

The following changes to the permit are being proposed:

	Current Permit (2003)	Proposed Permit
Permitted Hours of Operation	Receipt of Waste: Monday through Saturday 4:00 AM to 9:00 PM; Facility Operating Hours: Monday through Saturday 4:00 AM to 9:30 PM; Sunday receipt of waste and operation hours: Ten (10) Sundays per year 7:00 AM to 4:00 PM; Not open to the Public	(Receipt of Refuse/Waste) Monday through Saturday 4:00 AM to 9:00 PM (Ancillary Operations/Facility Operating Hours) Monday through Saturday 4:00 AM to 9:30 PM Sunday receipt of waste and operation hours: Twenty (20) Sundays per year 7:00 AM to 4:00 PM NOT OPEN TO THE PUBLIC.
Estimated Closure Date	2020	2021
Legal Description of Facility	The legal description of this facility is listed on page 2-1 of the Joint Technical Document dated 8/01	The legal description of this facility is listed on page 2-1 of the Joint Technical Document dated 4/03
Facility Boundary	567 acres	744 acres
Operational Documents		Negative Declaration (SCH#2010112045) (January 2011)
Conditions	l. Forward Inc. Landfill must comply with the conditions of approval of Use Permit UP-00-07. m. The LEA reserves the right to suspend or modify waste receiving and handling operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.	l. Forward Inc. Landfill shall comply with all mitigation measures specified in any certified environmental documents that are within the authority of the EA and are contained in a mitigation monitoring and reporting program, pursuant to PRC, Section 21081.6. Nothing in this Solid Waste Facility Permit shall prevent the

	<p>n. Any change that would cause the design or operation of the facility not to conform to the terms and conditions of this permit is prohibited. Such a change may be considered a significant change, requiring a permit revision. In no case shall the operator implement any change without first submitting a written notice of the proposed change, in the form of an RFI amendment to the EA at least 150 days in advance of the change.</p> <p>o. A copy of this permit shall be maintained at the facility.</p> <p>p. The operator is permitted to use the following materials for Alternative Daily Cover (ADC): Processed green waste, shredded tires, pre- processed treated auto shredder waste, ash and cement kiln dust, pre-processed construction and demolition waste, and geo-synthetic blankets. The types of ADC that do not require a demonstration project must be used in accordance with Title 27 CCR, Section 20690.</p> <p>q. Pre-processed ADC materials will be 1/ 8 inches or less in dimension.</p> <p>r. The pre-processed treated auto shredder waste must be deployed in a manner that does not allow the mixing of the cover and the waste. The pre-processed treated auto shredder waste cannot be used during rainy weather or anticipated rainy weather.</p> <p>s. The ash and cement kiln dust must be applied in such a manner as not to create voids or dust.</p> <p>t. For shredded green material ADC, the following conditions must be met:</p> <ul style="list-style-type: none"> • A track dozer is to be used to spread and compact the green material. • The processed green material shall not contain greater than five (5) percent contamination (plastic or paper bags, mix solid waste, or construction and demolition waste). • The processed green material must have a minimum thickness of 6 inches and an average compacted thickness of 12 inches <p>u. The use of the ADC shall conform to all conditions of the ADC demonstration project as approved by the LEA and</p>	<p>operator from complying with all other federal, state, and local requirements. Nothing in these conditions shall be construed as relieving the operator or designee from the obligation to obtain all required permits, licenses, approvals and/or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory agencies.</p> <p>m. This permit is subject to review by the EA and may be suspended, revoked, or revised at any time for sufficient cause.</p> <p>n. The EA reserves the right to suspend or modify waste receiving and handling operations when deemed necessary due to an emergency, a potential health hazard, or the creation of a public nuisance.</p> <p>o. Any change that would cause the design or operation of the facility not to conform to the terms and conditions of this permit is prohibited. Such a change may be considered a significant change, requiring a permit revision. In no case shall the operator implement any change without first submitting a written notice of the proposed change, in the form of an RFI amendment, to the EA at least 180 days in advance of the change.</p> <p>p. A copy of this permit shall be maintained at the facility.</p> <p>q. The operator is permitted to use the following materials for Alternative Daily Cover (ADC): Processed green waste, shredded tires, pre- processed treated auto shredder waste, ash and cement kiln dust, pre-processed construction and demolition waste, and geo-synthetic blankets. The types of ADC that do not require a demonstration project must be used in accordance with Title 27 CCR, Section 20690.</p> <p>r. Pre-processed ADC materials to be used will be 18 inches or less in dimension.</p> <p>s. The pre-processed treated auto shredder waste must be deployed in a manner that does not allow the mixing of the cover and the waste. The pre-processed treated auto shredder waste cannot be used during rainy weather or anticipated rainy weather.</p> <p>t. The ash and cement kiln dust must be applied in such a manner as not to create</p>
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	<p>maybe suspended or modified at any time for sufficient cause.</p> <p>v. If the site operator plans to use a new ADC, allowed by and described in, Title 27, CCR, Section 20690, the operator must submit any proposed changes to the ADC program in the form of an RFI amendment 150 days prior to the anticipated change.</p> <p>w. The LEA reserves the right to require additional measures to adequately control nuisances resulting from landfilling activities as needed</p> <p>x. The operator shall at all times provide adequate staffing to deal effectively and promptly with operations at the site as needed</p> <p>v. The operator shall provide at all times adequate numbers and types of operable equipment for compaction and placement of the waste and cover at the facility.</p> <p>z. An adequate water supply for dust and fire suppression shall be available at all times during the operation of this facility. The water supply must be acceptable to the local fire jurisdiction and the LEA.</p> <p>aa. Additional information concerning the design and operation of the facility shall be furnished upon request and within the time frame specified by the LEA. The operator must supply the LEA with any information the LEA deems necessary to conduct an inspection or to review and rewrite a Solid Waste Facility Permit.</p> <p>bb. The LEA must receive notification from the facility operator 48 hours prior to operating on a Sunday.</p>	<p>voids or dust.</p> <p>u. For shredded green material ADC, the following conditions must be met:</p> <ul style="list-style-type: none"> • A track dozer is to be used to spread and compact the green material. T • The processed green material shall not contain greater than five (5) percent contamination (plastic or paper bags, mix solid waste, or construction and demolition waste). • The processed green material must have a minimum thickness of 6 inches and an average compacted thickness of 12 inches <p>v. The use of the ADC shall conform to all conditions of the ADC demonstration project as approved by the LEA and maybe suspended or modified at any time for sufficient cause.</p> <p>w. If the site operator plans to use a new ADC, allowed by and described in, Title 27, CCR, Section 20690, the operator must submit any proposed changes to the ADC program in the form of an RFI amendment 180 days prior to the anticipated change.</p> <p>x. The LEA reserves the right to require additional measures to adequately control nuisances resulting from landfilling activities as needed.</p> <p>y. The operator shall at all times provide adequate staffing to deal effectively and promptly with operations at the site as needed.</p> <p>z. The operator shall provide at all time adequate numbers and types of operable equipment for compaction and placement of the waste and cover at the facility.</p> <p>aa. An adequate water supply for dust and fire suppression shall be available at all times during the operation of this facility. The water supply must be acceptable to the local fire jurisdiction and the LEA.</p> <p>bb. Additional information concerning the design and operation of the facility shall be furnished upon request and within the time frame specified by the LEA. The operator must supply the LEA with any information</p>
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		<p>the LEA deems necessary to conduct an inspection or to review and rewrite a Solid Waste Facility Permit.</p> <p>cc. The LEA must receive written notification ff. from the facility operator 48 hours prior to operating on the seventh day of that week.</p> <p>dd. There shall be no landfill activities, waste placement, disposal, composting, storage of equipment, or soil borrowing in the buffer area.</p> <p>ee. The Forward Inc. personnel shall monitor the adjacent creeks for litter and unauthorized discharge weekly during storm event, remove litter from the creek, and take appropriate measures to prevent unauthorized discharge from getting into the creek.</p>
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Findings:

Staff recommends concurrence in the issuance of the proposed revised SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Deputy Director with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated December 12, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on June 17, 2008.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on December 14, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on December 14, 2011, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Countywide Siting Element and with the Countywide Integrated Waste Management Plan, as	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
	described in the memorandum dated .	
21685 (b)(5) Preliminary or Final Closure/ Postclosure Maintenance Plans Consistency with State Minimum Standards	Engineering Support Branch staff in the Closure and Facility Engineering Unit found the Preliminary Closure/Postclosure Maintenance Plan is consistent with State Minimum Standards as described in their memorandum dated December 28, 2011 .	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(7)(A) Financial Assurances Documentation Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Financial Assurances documentation in compliance on January 4, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(7)(B) Operating Liability Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Operating Liability in compliance on January 4, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	Permitting and Assistance Branch and LEA staff found that the facility was in compliance with all operating and design requirements during an inspection conducted on November 3, 2011. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on December 14, 2011, that the proposed permit is consistent with and supported by the existing CEQA documentation. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	A Public Informational Meeting was held by the LEA on November 21, 2011. Written and oral comments were received by LEA. Comments were addressed by LEA. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed revised SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

Compliance History:

The LEA and Permits and Assistance Branch staff conducted a pre-permit inspection on November 3, 2011. LEA and Permits and Assistance Branch staff found that the facility is in compliance with applicable state minimum standards and permit conditions.

Below are the details of the transfer station's compliance history based on the EA's monthly inspection reports during the last five years:

In 2011, the LEA documented violations of CCR 20686 – Beneficial Reuse; Gas Monitoring and Control – CCR 20921; and one violation for CCR 17355 - Disposal.

In 2010, the LEA documented seven violations of CCR 20921 – Gas and Monitoring Control; two violations PRC 44014 - Operator Compliance with Terms and Conditions; two violations for CCR 20690 – Alternate Daily Cover; two violations for CCR 20680 – Daily Cover; and one violation for CCR 20820 – Drainage and Erosion Control.

In 2009 there were no violations.

In 2008, there was one violation for CCR 20919.5 – Explosive Gas Control; and one violation for CCR 20690 – Alternate Daily Cover.

In 2007, there were two violations for CCR 20686 – Beneficial Reuse; and three for CCR 20919.5 – Explosive Gas Control

Environmental Analysis:

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document(s) prepared by the San Joaquin County Community Development Department, acting as lead agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

Forward Landfill currently operates under a SWFP issued by the Local Enforcement Agency on June 17, 2003. The current permit includes the Solid Waste Disposal Site and an Asbestos Containing Waste Disposal Site. The proposed revised SWFP under consideration proposes to expand the existing landfill facility boundary by 177 acres to the southwest of the current permitted landfill operation and was acquired by Forward, Inc. in 2005. This expansion will increase the permitted boundary from 567 acres to 744 acres. No landfill activities, waste placement, disposal, composting, storage of equipment, or soil borrowing will occur on the 177 acres. The proposal will not be an increase in maximum daily tonnage, permitted facility disposal ‘footprint’, or the maximum elevation at the landfill.

A Negative Declaration (ND) was prepared (*Forward Landfill Solid Waste Facility Permit Boundary Amendment*), State Clearinghouse (SCH) No. 2010112045, was circulated for a 30-day review period from November 19, 2010, to December 20, 2010, and was adopted by the San Joaquin County Board of Supervisors, and a Notice of Determination (NOD) was filed with the County Clerk and the SCH dated January 16, 2011. The ND describes and supports the change in facility design and will not affect current operations of the Forward Landfill, which will be authorized by the issuance of this permit.

The County of San Joaquin Environmental Health Department (LEA) has provided a finding that the proposed Revised Solid Waste Facilities Permit is consistent with and supported by the cited environmental documents.

A law firm representing persons opposing Forward Landfill sent a letter to CalRecycle arguing that the ND is legally inadequate for various reasons (letter to Carol Mortensen from Laurel L. Impett, Shute, Mihaly & Weinberger LLP, dated January 13, 2012). It is too late in the CEQA process for CalRecycle to take exception to the ND. Under CEQA, a Responsible Agency, such

as CalRecycle, must rely on the environmental document prepared by the Lead Agency, in this case, San Joaquin County (CEQA Guidelines, § 15096 (a)). None of the exceptions to that general rule apply in this case, most notably, there have been no significant changes in the proposed project since the Lead Agency adopted the ND (CEQA Guidelines, §§ 15096(e) and 15162(a)). Accordingly, CalRecycle must consider the ND prepared by the Lead Agency and make its own decision as to whether and how to approve the project, here a revised Solid Waste Facilities Permit.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the ND prepared by the San Joaquin County Community Development Department in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of lead agency for its consideration of the proposed revised Solid Waste Facilities Permit. Department staff has reviewed and considered the CEQA findings adopted by the County of San Joaquin. Department staff recommends that the existing environmental documents are adequate for the environmental evaluation of the proposed project for those project activities which are within the Department's expertise and authority, or which are required to be carried out or approved by the Department. As stated in the ND, the amendment of the facility boundary does not authorize or enable any solid waste disposal or other landfill activities in the expansion area, nor does it allow any increase in daily tonnage or traffic. The purpose of the expansion is simply to allow the installed landfill gas monitoring wells to be compliance points that are a sufficient distance from the present disposal footprint. On the question raised in the Shute, Mihaly letter as to the increase in the number of Sundays the landfill may operate each year from 10 to 20, the previous EIR (SCH #2001052081, certified by San Joaquin County in 2003), evaluated the impacts from the landfill operating seven days a week. At the request of CalRecycle's predecessor, the California Integrated Waste Management Board, the landfill operator agreed to reduce the number of Sundays on which landfill operations could take place from 52 to 10. Thus, the increase from 10 to 20 Sundays was already evaluated in the 2003 EIR and there is no basis for re-evaluating that matter in 2012.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed Revised SWFP and all of its components and supporting documentation, this staff report, the ND adopted by the lead agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed revised SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

Local Issues:

The project document availability, hearings, and associated meetings were extensively noticed consistent with the SWFP requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community (Census Tract 351.31). Census information indicates that the surrounding population is approximately 65.8% White, 3.3% African American, 4.8% Asian, 1.3% American Indian and Alaska Native, 0.5% Native Hawaiian and Other Pacific Islander, 17.6% some other race, and 6.7% two or more races. 37.0% of the total population describe themselves as Hispanic or Latino. 16.6% of the families are below the poverty level. Staff has not identified any local issues related to this item. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

Public Comments:

The LEA held a public informational meeting on November 21, 2011, at the Forward Landfill, located at 9999 South Austin Road, Manteca. Six members of the public were in attendance. The issues discussed were as follows: odor issues from the compost site; the water well permit process; the CEQA process; mud on the road outside the landfill; and the additional 10 days the site is allowed to be open each year. The questions and responses by the LEA are attached (Attachment 1). Two comment letters were received by the LEA. They were written by an attorney on behalf of one landfill neighbor. The first letter covered various aspects of the permitting project and other concerns related to the facility. The second was a question regarding appeals which the LEA responded. Written responses to the first letter are attached (Attachment 2).

Two comment letters came to CalRecycle. One letter came from the San Joaquin Farm Bureau Federation. Their concerns focused on the increase in Sunday operations from 10 to 20 during the year, whether the monitoring wells are considered a “landfill activity”, and whether the Negative Declaration provided for a sufficient analysis of impacts. The second letter came from a second attorney representing the same landfill neighbor as above. This letter focuses on various CEQA issues relating to the boundary change and increased number of Sundays the facility is allowed to be open.

The Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on January 17, 2012.

Department Staff Actions:

Staff has worked with the LEA throughout the permit process by providing comments on permitting documents and communicating on other issues relating to the project such as comments from the public.